



October 25, 2017

Michigan Chapter
of the Alexander Graham Bell
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House of Representatives
Health Policy Committee
Attention: Rep. Hank Vaupel, Chair
P.O. Box 30014
Lansing, MI 48909-7514

Re: HB 5158- Empower Bill

Board of Directors

Dear Rep. Vaupel and Members of the Health Policy Committee:

Stacey Lim, Ph.D.
President

I am the representative of the Michigan Chapter of the Alexander Graham Bell Association for the Deaf and Hard of Hearing (MI A.G. Bell). At this point the Michigan Chapter of the Alexander Graham Bell Association for the Deaf and Hard of Hearing (MI A.G. Bell) opposes HB 5158 - Empower Bill. These are the reasons and our suggestions.

Dianne Hodgkin
Treasurer

Samantha Kesteloot-Carlton
Secretary

Amanda Hopkins, M.S.
CCC-SLP, Certified AVT

I appreciated the Caucus meeting with Representatives Howrylak and Phelps, as well as Senator Robertson, their legislative aides, and other legislators and legislative aides as well. I look forward to working with your committee going forward. After reading HB 5158, I still have some concerns that need to be addressed.

Elisabeth McCourt

Katie McHugh

Dan Seraphinoff

Summer Camp Program
Co-Chairs:
Sidney Kraizman, Esq.
Heather Van De Steene

1) Advisory Committee HB 5158 at subsection 11 (A), page 8 lines 23-25 – I am confident that it was written with good intentions, and the use of the word “community” may well have caused some confusion. But, it discriminates against parents with typical hearing who have deaf and hard of hearing children by making them ineligible by reason of their hearing to sit on the advisory committee. It reads: “The members must be selected from a cross-section of individuals who are a part of the deaf, deafblind, or hard of hearing community to avoid imbalance and bias.” 96% percent of the parents of deaf and hard of hearing children have typical hearing and are NOT Deaf or Hard of Hearing. (Gallaudet Research Institute 2009-2010 Annual Survey. <http://www.gallaudet.edu/rsia/research-support/research-resources/demographics.htm>) Thus, parents with typical hearing are now excluded from the advisory committee. The teachers of the deaf

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and hard of hearing, speech and language pathologists, and audiologists who have typical hearing are also excluded from the advisory committee.

Request - Strike page 8 lines 23-25 "The members must be selected from a cross-section of individuals who are a part of the deaf, deafblind community, or hard of hearing community to avoid imbalance and bias."

Request- Subsection (11) (A) Replace with "The members must be selected to ensure direct personal or professional experience in the concerns of individuals who are deaf, deaf/blind or hard-of-hearing, and represent a cross-section of languages and communication modes to avoid imbalance and bias."

The limited number of 3 professionals on the advisory committee prevent it from having sufficient depth of knowledge. This committee has significant responsibility and is instrumental in shaping every aspect of a deaf or hard of hearing child's acquisition of language and therefore, education. Members of this committee must be highly qualified in a variety of roles and knowledgeable of appropriate developmental milestones, assessment tools, methods for monitoring and reporting, recommending frequency of assessments, and methods of communicating this information to a diverse group of parents, guardians and professionals. To achieve an Advisory Committee that is both knowledgeable and effective, I propose the following:

Subsection (11) The department shall appoint thirteen members to the Advisory Committee established under subsection (10) as follows:

(B) At least seven members must each satisfy 1 or more of the following:

(i) Possess a valid teaching certificate issued by the superintendent of public instruction under Section 1531 with an endorsement or other official designation by the department relating to teaching deaf, deafblind, or hard-of-hearing children.

(ii) has at least 3 years of experience in a school district or intermediate school district relating to teaching or supervising individuals who teach deaf, deafblind, or hard-of-hearing children.

(iii) is affiliated with the Michigan School for the Deaf

(iv) is an audiologist licensed under article 15 of the public health code, MCL 333.16101 to 333.18838, who specializes in deaf, deafblind, or hard-of-hearing children from birth to age 8.

(v) is a speech-language pathologist licensed under part 176 of the public health code, MCL 333.17601 to 333.17613 who has experience working with deaf, deafblind, or hard-of-hearing children.

(vii) is an early intervention specialist who works with deaf, deafblind, or hard-of-hearing children.

(viii) has expertise and training in educational methods applicable to deaf, deafblind, or hard-of-hearing children.

(C) At least 3 members must be a parent or legal guardian of a deaf, deafblind, or hard-of-hearing child."

(D) at least 3 members must be deaf, deaf blind or hard of hearing."

This recommendation does not alter the number of parents/ legal guardians, or deaf, deaf-blind or hard of hearing adults. It does, however, assure a level of knowledge, competence, credibility, and responsibility that is fitting for a committee tasked with such important duties at the state level. While this Advisory Committee does not make the final decisions on these matters, the Michigan Department of Education will be guided by the recommendations they make.

Subsection (14) The bill now provides for 9 members of the advisory committee and that the advisory committee may take official action based on a majority vote where there is a quorum of only 5 members. This means that official action of the advisory committee may be taken on the basis of the votes of a majority of only 3 members (where there is a quorum of 5), none of whom may be professionals in the field.

Request: Strike Pg 10, Lines 13-18. and Replace with: A majority of the members of the Advisory Committee constitute a quorum for the transaction of general business at a meeting of the advisory committee. A super majority of 10 of 13 members of the advisory committee are required for official action or recommendations of the advisory committee to the department under this section.

In Michigan 84.9% of the deaf and hard of hearing children use Spoken Language as per Research at Gallaudet for 2010, the last year that statistics are available. Only 14.4 % use sign language only or SIMCOM in school. Please read attached page 11 from Gallaudet Research Institute as to Michigan and the nation.

<http://www.gallaudet.edu/rsia/research-support/research-resources/demographics.html>. However, it is important that ASL and all modes of communication are represented.

There are certain groups that believe all children born with hearing loss should learn American Sign Language and others that believe most children born with hearing loss should learn to listen and speak. To counter these opposing beliefs, we appreciate that HB 5158 emphasizes in Section 2 that "A parent or legal guardian has sole discretion under this section to determine which language and communication mode option is best to further his or her deaf, deaf blind, or hard of hearing child's educational progress."

2) This bill uses the phrase, "expressive, pragmatic, and receptive language acquisition and development in American Sign Language, English, or Communicative Competence" 13 times. This makes it difficult to read, non-inclusive of languages other than English, and unnecessary since each of these is included in the definitions.

Request: Replace "American Sign Language, English, or Communicative Competence" with **"the child's language and communication mode."** That phrase "the child's language and communication mode" is taken from the IDEA at 20 U.S.C.A. section 1414(d) (3) (B) (iv). Importantly, the phrase "communication mode" at definition 18(D) includes, "augmentative and alternative communication (AAC), auditory verbal, auditory oral, cued speech, total communication, braille, American Sign Language, Tactile Signing, Spoken English, and Written English."

Request: An alternative is to replace Subsection (1) Lines 5-8 with **"expressive, pragmatic, and receptive language acquisition and development, or communicative competence in American Sign Language, English (spoken, written, visually supplemented, or LSL (listening and spoken)), or other native language of the home, (herein after referred to as "language acquisition and development, or communicative competence").** Then use **"language acquisition and development, or communicative competence"**) in each of the remaining 12 places the current phrase is used.

Discussion: From our meeting on May 31, 2017 with Representative Howrylak and Representative Phelps I understood that this phrase "American Sign Language, English, or Communicative Competence" was added, because it was thought that assessments had to be in English, ASL is a different language and had to be listed separately. I believe that this is a misunderstanding resulting from the complex subject of the education of the deaf and hard of hearing children.

The IDEA regulation 34 CFR section 300.304(c) (1) (ii) provides: "c) Other evaluation procedures. Each public agency must ensure that- 1) **Assessments and other evaluation materials** used to assess a child under this part-.(i)Are selected and administered so as not to be discriminatory on a racial or cultural basis; (ii) **Are provided and administered in the child's native language or other mode of communication** and in the form most likely to yield accurate information on what the child knows and can do academically , developmentally, and functionally, unless it is clearly not feasible to so provide or administer;"

This provision in HB 5158 violates this cited IDEA regulation in that it would require assessments in English and not the native language of the child. The language assessment for infants, toddlers, and preschoolers must be in the child's native language as per this federal regulation. There are many young deaf and hard of hearing children in Michigan whose native language is Arabic or Spanish and that is the language in which they must be assessed.

Secondly, the phrase "the child's language and communication mode" refers specifically to that child's language and communication mode. The phrase "communicative competence" does not refer to the child's language and communication mode. For that reason it would violate the right of the child under IDEA to an assessment in that child's language and communication mode.

3. This Bill defines ASL, Cued Speech, Alternative and Augmentative Communication but does not mention or define Listening and Spoken Language. Listening and Spoken Language (LSL) is left out of the definitions section and is not listed under "Communication Mode". The definition of LSL needs to be added.

Request: Listening and Spoken Language should be defined as: "A mode of communication for deaf, deaf blind, and hard of hearing children that focuses on the acquisition and development of spoken language by maximizing listening through the use of hearing technologies, professional intervention and family involvement/support. Listening and Spoken Language for the purposes of this bill includes auditory/oral and auditory/verbal." LSL should also be listed under (18)(D) "Communication Mode."

Discussion: I listened to a recent presentation at the AG Bell Symposium on 6/30/2017 by Ellen Thomas, a Speech and Language Pathologist, Certified Auditory-Verbal Therapist (AVT) on Spoken Language outcomes in children implanted early. On the next 3 pages there follows power points from that presentation. *Deaf children who were implanted with cochlear implants at 21 months of age achieved receptive and expressive language levels that exceed the average of typically hearing children. Speech was good. On the Woodcock Johnson reading comprehension test they scored above the average of typically hearing children after 4, 5, and 6 years of using the cochlear implant, which would be the first, second, and third grades. This is why we think that LSL is important.*

See attached power points from that presentation.

4. At page 12 line 26 Subsection 20(K) it provides that: "Language includes written, spoken, or auditory English and American Sign Language." That is an incomplete definition. First, because it violates the cited IDEA regulation as to the native language of a child, which may be Spanish or Arabic. Secondly, it does not include deafblind children who use an alternative or augmentative device.

Request: "Language" should be defined as, "all spoken and signed languages and language of pictures and/or icons used with an alternative or augmentative device. This includes but is not limited to: American Sign Language, English (written, spoken, or auditory), other native languages of the home, or alternative or augmentative devices."

5. Milestones- Request – Add language that the developmental language milestones "be valid and reliable." Please see IDEA regulation 300.304c) iii) "Are used for the purposes for which the assessments or measures are valid and reliable."

The language milestones referenced at Subsection (4) (A) page 2 lines 23-27 are confusing. It is unclear as to whether the Michigan Department of Education is required to just identify the language milestones for all typically developing children and put that in a resource or to also identify milestones for deaf, deaf blind, and hard of hearing children.

Request- clarify that the developmental language milestones are for typically hearing children of the same age and eliminate the confusing language. But, if something else is intended, then clarify and insert language that the developmental language milestones "be valid and reliable." Please see IDEA regulation 300.304c) iii) "Are used for the purposes for which the assessments or measures are valid and reliable."

6. Subsection 7 page 6 line 6 provides: "The assessment tools should be identified in the rules governing special education programs and services." This is unwise. It takes years to change the Michigan special education rules. Better assessment tools are developed over time, and sometimes specific assessments are determined to be invalid.

Request- Strike this sentence, "The assessment tools should be identified in the rules governing special education programs and services."

7. Subsection 8, Page 6 lines 23 - page 7 line 11 provides- "If a Deaf, Deafblind, or Hard of Hearing Child does not demonstrate reasonable progress....." This paragraph is obviously well intentioned, but, instead

of reconvening a meeting to review the Individualized Family Service Plan (IFSP), the Individualized Education Plan (IEP) or the Individualized Accommodation Plan (IAP), it provides authority to "modify the child's plan or program to include, in as much detail as possible, an explanation as to why the child has not demonstrated reasonable progress and included specific recommendations as to what strategies, services, and programs are or will be available to assist the child in reaching his or her developmental milestones." Obviously, no one can unilaterally change a child's program or plan under the IDEA. But, the service coordinator should seek a review of the program or plan by a meeting with the parents and make a recommendation.

Request: Redraft this paragraph to make it into a recommendation and request a review of the IFSP, IEP or IAP in a meeting with the parents.

Please feel free to contact me at my law office at: 615 Griswold St., Suite 1616, Detroit, MI 48226; sidkraizman@sbcglobal.net . Cell phone 248 921 0687.

Best regards,



Sidney Kraizman
Representative of MI A.G. Bell

The Michigan Chapter of the Alexander Graham Bell Association for the Deaf and Hard of Hearing (MI A.G. Bell) is a state chapter of the national Alexander Graham Bell Association for the Deaf and Hard of Hearing. Our organization is a Michigan non-profit corporation which is devoted to benefitting children who are deaf and hard of hearing. Our membership is composed of parents of deaf and hard of hearing children, teachers of deaf and hard of hearing students, speech and language pathologists, audiologists, and adults who are deaf or hard of hearing. We provide: 1) a summer camp program for children with hearing loss, 2) conferences for professionals and for parents directed toward the education of children who are deaf and hard of hearing, and 3) resources to parents and professionals who work with children who have hearing loss. The MI AG Bell Fall Conference is on Thursday November 9, 2017 at the Macomb Intermediate School District, and it is entitled, "Back to School Essentials for Students with Hearing Loss: Exploring Literacy & Assessments."